

Proposed provisions	Status as of today's notice	Citations	Proposed provisions	Status as of today's notice	Citations	Proposed provisions	Status as of today's notice	Citations
Written Analysis Plan.	As Proposed in 1985.	(50 FR 49255).	Permitting.....	As Proposed in 1985.	Section IX.D.7; (50 FR 49256-58).	Permitting.....	As Proposed in 1985.	Section IX.G.4; (50 FR 49256).
Preparedness and Prevention.	As Proposed in 1985.	(50 FR 49255)	Markers: Replacement of 266 Subpart E with Section 3014 Generator and Transporter Standards.	As Proposed in 1985.	(50 FR 49239).	Tracking.....	Modified.....	Section IX.G.2.
Tracking.....	Modified.....	Section IX.D.2.				Closure.....	Modified.....	Section IX.G.2.
Recordkeeping/Reporting.	Modified.....	Section IX.D.5.				Recordkeeping/Reporting.	Modified.....	Section IX.G.2.
Storage in Containers.	Modified.....	Section IX.D.1.a.				Hazardous Waste Mixtures.	As Proposed in 1985.	(50 FR 49205; final burning & blending rule).
Storage in Above-ground Tanks.	Modified.....	Section IX.D.1.b.	Burners: Storage in Tanks and Containers.	Modified.....	Section IX.G.1.	Road Oils.....	Modified.....	Section IX.H; Section VIII.F.4.
Storage in Under-ground Tanks.	Modified.....	Section IX.D.1.c.	EPA ID Number.	As Proposed in 1985.	(50 FR 49255).	Disposal Facilities: Listed or characteristic used oil.	As proposed in 1985.	(50 FR 49239).
Storage in Surface Impoundments.	Modified.....	Section IX.D.1.d.	Analysis Requirements.	Modified.....	Section IX.G.2.	Nonhazardous used oil and disposal guidelines.	New.....	Section IX.I; Section VIII.E.
Corrective Action.	Modified for underground tanks.	Section IX.D.3.	Space Heater Requirements.	As Proposed in 1985.	(50 FR 49205; final burning & blending rule).			
Closure/Post-closure.	As Proposed in 1985.	(50 FR 49256).	Corrective Action.	Modified for USTS.	Section IX.G.4; (50 FR 49256).			
Financial Responsibility.	Deferred.....	Section IX.D.4.						

[FR Doc. 81-22482 Filed 9-20-91; 8:45 am]

BILLING CODE 5560-50-M

Federal Register

**Monday
September 23**

Part III

Harry S. Truman Scholarship Foundation

45 CFR Part 1801

**Harry S. Truman Scholarship Regulations;
Final Rule**

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION**45 CFR Part 1801****Harry S. Truman Scholarship Regulations**

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Final rule.

SUMMARY: The following are the regulations governing the annual competition for Harry S. Truman Scholarships. The regulations reflect modifications in the program adopted by the Harry S. Truman Scholarship Foundation on September 13, 1991. Modifications were made to clarify and make explicit policies of the Foundation in administering the Truman Scholarship Program. Amendments provide for a parallel competition for second year full time students at community and junior colleges. In addition a number of clarifying changes are being made to the last complete edition of these regulations published in the *Federal Register* on June 25, 1990 (55 FR 25940).

EFFECTIVE DATE: October 1, 1991.

ADDRESSES: Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Louis H. Blair, (202) 395-4831.

SUPPLEMENTARY INFORMATION:**List of Subjects in 45 CFR Part 1801**

Grant programs-education, Scholarships and fellowships.

Dated: September 13, 1991.

Louis H. Blair,

Executive Secretary.

Elmer B. Staats,

Chairman, Board of Trustees.

Title 45 of the Code of Federal Regulations is amended by revising part 1801 to read as follows:

PART 1801—HARRY S. TRUMAN SCHOLARSHIP PROGRAM**Subpart A—General**

Sec.

1801.1 Annual Truman Scholarship competition.

1801.2 Truman Scholars are selected from qualified applicants from each State.

1801.3 Students eligible for nomination.

1801.4 Definitions.

Subpart B—Nominations

1801.10 Nomination by institution of higher education.

1801.11 Annual nomination.

1801.12 Institutions with more than one campus.

1801.13 Two-year institutions.

1801.14 Submission of application to the Foundation.

1801.15 Faculty representative.

1801.16 Closing date for receipt of nominations.

1801.17 Contents of application.

Subpart C—The Competition

1801.20 Selection of finalists.

1801.21 Evaluation criteria.

1801.22 Interview of finalists with panel.

1801.23 Recommendation by panel.

1801.24 Supplemental nominations.

1801.25 Selection of Truman Scholars by the Foundation.

Subpart D—Graduate Study and the Work Experience Program

1801.30 Continuation into graduate study.

1801.31 Approval of graduate programs by the Foundation.

1801.32 Eligible colleges and degree programs.

1801.33 Public service internships and employment prior to graduate study.

Subpart E—Payments to Finalists and Scholars

1801.40 Travel expenses of finalists.

1801.41 Scholarship stipends.

1801.42 Definition of "fee".

1801.43 Allowance for books.

1801.44 Allowance for room and board.

1801.45 Deduction for benefits from other sources.

Subpart F—Payment Conditions and Procedures

1801.50 Acceptance of the scholarship.

1801.51 Report at the beginning of each term.

1801.52 Payment schedule.

1801.53 Postponement of payment.

1801.54 Annual report.

Subpart G—Duration of Scholarship

1801.60 Renewal of scholarship.

1801.61 Termination of scholarship.

1801.62 Recovery of scholarship funds.

Authority: Pub. L. 93-642, 88 Stat. 2276 (20 U.S.C. 2001-2012).

Subpart A—General**§ 1801.1 Annual Truman Scholarship competition.**

Each year, the Harry S. Truman Scholarship Foundation carries out a nationwide competition to select students to be Truman Scholars.

§ 1801.2 Truman Scholars are selected from qualified applicants from each State.

(a) At least one Truman Scholar is selected each year from each State in which there is a resident applicant who meets eligibility criteria in § 1801.3. In addition, the Board of Trustees may select additional Scholars-at-Large.

(b) As used in this part, *State* means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity: Guam, the Virgin Islands, American

Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1801.3 Students eligible for nomination.

A student is eligible to be nominated for a Truman Scholarship if he or she:

(a) Is a junior level student pursuing a bachelor's degree as a full-time student at an accredited institution of higher education and will receive a baccalaureate degree the following academic year; or, is a full-time sophomore level student at an accredited community or junior college who will be a full-time junior the following year at an accredited four year institution;

(b) Has an undergraduate field of study that permits admission to a graduate program leading to a career in public service;

(c) Ranks in the upper quarter of his or her class; and

(d) Is a U.S. citizen, a U.S. national, or a permanent resident of the Commonwealth of the Northern Mariana Islands.

§ 1801.4 Definitions.

As used in this part:

Academic year means the period of time, typically 8 or 9 months in which a full-time student would normally complete two semesters, three quarters, or the equivalent.

Foundation means the Harry S. Truman Scholarship Foundation.

Full-time student means a student who is carrying a sufficient number of credit hours or their equivalent to secure the degree or certificate toward which he or she is working, in no more time than the length of time normally taken at the institution of higher education.

Graduate study means the courses of study beyond the baccalaureate level which lead to an advanced degree.

Institution of higher education has the meaning given in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

Junior means a student who following completion of the current academic year has one more year of full-time course work to receive a baccalaureate degree.

President means the principal official responsible for the overall direction of the operations of an institution of higher education.

Public service means employment in: governments at any level, the uniformed services, public interest organizations, non-governmental research and/or educational organizations, and non-profit organizations such as those whose primary purposes are to help needy or disadvantaged persons or to protect the environment.

Resident means a person who has legal residence in the State, recognized under State law. If a question arises concerning the State of residence, the Foundation determines, for the purposes of this program of which State the person is a resident, taking into account place of registration to vote, parent's place of residence, and eligibility for "in-State" tuition rates at public institutions of higher education.

Scholar means a person who has been selected by the Foundation as a Truman Scholar, has accepted the Scholarship and agreed to the conditions of the award, and is eligible for Scholarship stipend(s).

Senior means the academic level recognized by the institution of higher education as being in the last year of study before receiving a baccalaureate degree.

Sophomore means the academic level recognized by the institution of higher education as having second year standing.

Term means the period which the institution of higher education uses to divide its academic year: Semester, trimester, or quarter.

Work-experience program means employment that involves an intensive period of practical work in a Federal, State, or local government office or in some other type of public service organization.

Subpart B—Nominations

§ 1801.10 Nomination by institution of higher education.

To be considered in the competition a student must be nominated by the institution of higher education that he or she attends.

§ 1801.11 Annual nomination.

(a) Except as provided in §§ 1801.11 (b), 1801.12, and 1801.24, each institution of higher education may nominate up to three students annually. If an institution chooses to nominate three students, the three may have legal residence in the same State as the institution or in different States.

(b) The Foundation may announce each year in its Bulletin of Information special circumstances under which each institution may nominate one or more additional candidates.

(c) All nominations must be made by the President of the institution or the designated Faculty Representative.

§ 1801.12 Institutions with more than one campus.

If an institution of higher education has more than one component separately listed in the current edition of the Directory of Postsecondary

Institutions published by the U.S. Department of Education, each may nominate up to three students. However, a component that is organized solely for administrative purposes and has no students may not nominate a student.

§ 1801.13 Two-year institutions.

If an institution of higher education does not offer education beyond the sophomore level, the institution may nominate only students who will be full-time juniors the following year at other accredited institutions of higher education.

§ 1801.14 Submission of application to the Foundation.

To nominate a student for the competition, the institution must send the students's application to the Foundation.

§ 1801.15 Faculty Representative.

(a) Each institution which nominates a student must give the Foundation the name, business address, and business telephone number of a member of the faculty who will serve as liaison between the institution and the Foundation.

(b) It is the role of this Faculty Representative to publicize the Truman Scholarship on campus, solicit recommendations of potential nominees from members of the faculty, and insure that the institution's nomination, with all required supporting documents, is forwarded to the Foundation to arrive by the required deadline.

§ 1801.16 Closing date for receipt of nominations.

The Foundation publishes an annual notice in the *Federal Register* of the date, usually December 2, by which time the Foundation must receive nominations at the address specified in the nominations materials in order to be considered by the Foundation.

§ 1801.17 Contents of application.

(a) The Foundation provides a form that must be used as the application.

(b) Each application must include the following:

(1) A certification of nomination and eligibility signed by the Faculty Representative;

(2) A completed Nomination and Supporting Information Form signed by the nominee;

(3) An analysis of a public policy issue written by the nominee;

(4) A current official college transcript;

(5) Four letters of recommendation including one from the Faculty Representative; and a

(6) Statement that the student is willing to participate in a Truman Scholars Leadership seminar sponsored by the Foundation and to attend the awards ceremony.

Subpart C—The Competition

§ 1801.20 Selection of Finalists.

The Foundation selects finalists from the students who are nominated.

§ 1801.21 Evaluation criteria.

(a) The Foundation selects finalists from the students nominated primarily on the basis of the following criteria:

(1) Leadership abilities and potential;

(2) Suitability of the nominee's proposed program of study and its appropriateness for a leadership career in public service with substantial impact on public policies;

(3) Writing and analytic skills;

(4) Academic performance and potential to perform well in graduate school; and

(5) Quality and extent of public and community service and government involvement.

(b) The Foundation evaluates each student solely on the basis of the information required under § 1801.17.

§ 1801.22 Interview of finalists with panel.

The Foundation invites each finalist to an interview with a regional review panel or a special panel to interview supplemental finalists. Panels evaluate Truman Finalists primarily on:

(a) Leadership potential including vision, sensitivity, and communications skills;

(b) Commitment to a career in government or elsewhere in public service; and

(c) Intellectual strength, analytical abilities, and prospects of performing well in graduate school.

§ 1801.23 Recommendation by panel.

(a) Each Panel is asked to recommend to the Board of Trustees the name of one candidate from each state in the region to be appointed as a Truman Scholar and an alternate from each state in the event the recommended finalist from the state does not accept appointment. The Foundation may authorize each regional review panel to recommend additional "Scholars-at-Large" from the States in its region.

(b) The recommendations are based on the material required under § 1801.17 and, as determined in the interview, the panel's assessment of each finalist in terms of criteria presented in § 1801.22.

§ 1801.24 Supplemental nominations.

(a) In the event that a regional review panel determines that none of the finalists from a state meet all the requirements expected of a Truman Scholar, it does not have to provide a recommendation. The Foundation may ask institutions that nominated candidates for the competition to submit an additional nominee from that state. The nominee may be a person previously nominated who was not selected as a finalist or a newly nominated individual. In the event that supplemental nominations are needed from more than two states, each institution shall be limited to a maximum of two nominees for the supplemental competition. The Foundation shall convene a special panel to interview supplemental finalists and to recommend finalist(s) to be appointed as Truman Scholar(s).

(b) If additional nominations are made under paragraph (a) of this section, the applications must meet the requirements of subpart B—Nominations of this part, and are considered under the procedures of this subpart.

§ 1801.25 Selection of Truman Scholars by the Foundation.

(a) The Foundation names Truman Scholars after receiving recommendations from the regional review panels and the special supplemental panel if convened.

Subpart D—Graduate Study and the Work Experience Program**§ 1801.30 Continuation into graduate study.**

(a) The Foundation will not conduct a new and separate competition for graduate scholarships, nor will it add new Truman Scholars at the graduate level.

(b) Only Scholars who satisfactorily complete their undergraduate education and who comply with § 1801.31 shall be eligible for continued Foundation support for an approved program of graduate study.

§ 1801.31 Approval of graduate programs by the Foundation.

(a) By December 1, Scholars desiring Foundation support for graduate study the following academic year must submit a proposed program of graduate study to the Foundation for approval. The graduate program proposed for approval may differ from that proposed by the Scholar when nominated for a Truman Scholarship. Factors to be used by the Foundation in considering approval include being consistent with:

(1) Field of study initially proposed in the Scholar's Nomination and Supporting Information Form;

(2) Graduate school programs given priority in the current Bulletin of Information;

(3) Undergraduate educational program and work experience of the Scholar; and

(4) Preparation specifically for a career in public service.

(b) Foundation approval in writing of the Scholar's proposal is required before financial support is granted for graduate work.

(c) Scholars must include in their submission to the Foundation a statement of interest in a career in public service that specifies in detail how their graduate program and their overall educational and work experience plans will realistically prepare them for their chosen career goal in government or elsewhere in the public service. The Foundation issues guidelines to help Scholars prepare their proposals.

(d) After completing his or her undergraduate studies, a Scholar each year may request in writing a deferral of support for graduate studies. Deferrals must be requested no later than June 15 for the succeeding academic year. Scholars failing to request a year's deferral and to receive written approval from the Foundation will lose one year of funding support for each year for which they fail to request and receive deferrals. Total deferrals may not exceed four years unless an extension is approved by the Foundation.

§ 1801.32 Eligible colleges and degree programs.

(a) Truman Scholars at the graduate level may use Foundation support to study at any accredited college or university that offers graduate study appropriate and relevant to their public service career goals.

(b) They may enroll in any relevant graduate program for a career in public service. A wide variety of fields of study can lead to careers in public service including—but not limited to—agriculture, biology and environmental sciences, engineering, mathematics, physical and social sciences as well as traditional fields such as economics, education, government, history, international relations, law, medicine and public health, political science, and public administration and public policy.

(c) Foundation support for graduate study is restricted to three years of full-time study for Scholars selected in 1991 and subsequent years from four year institutions and to two years for all other Scholars.

§ 1801.33 Public service internships and employment prior to graduate study.

The Foundation encourages all Scholars to consider participating in paid internships, regular employment, or in voluntary programs of work experience in the government or in other public service organizations before attending graduate school. The Foundation may give preference in its selection process to nominees planning such internships and employment. The Foundation assists Scholars in finding internships and regular employment in Federal agencies and departments.

Subpart E—Payments to Finalists and Scholars**§ 1801.40 Travel expenses of finalists.**

The Foundation will provide tickets for intercity round trip air, train or bus transportation from the finalist's nominating institution to the interview site. The Foundation does not reimburse finalists for lodging, meals, local transportation, or other expenses. Finalists wishing to drive to the interview will be reimbursed for mileage according to Federal Travel Regulations. Mileage reimbursement may not exceed the costs to the Foundation of airline transportation. If, at the time of the interview, the finalist is spending the semester abroad under a program recognized for academic credit towards graduation, the Foundation will arrange for air transportation at government contract rates and reimburse the finalist for three quarters of the costs for air transportation.

§ 1801.41 Scholarship stipends.

The award covers eligible expenses in the following categories: Tuition, fees, books, and room and board. Payments from the Foundation may be received to supplement, but not to duplicate, benefits received by the Scholar from the educational institution or from other foundations or organizations. The benefits received from all sources combined may not exceed the costs of tuition, fees, books, and room and board as determined by the Foundation.

(a) Scholars selected in 1990 and prior years are eligible to receive annually up to \$7,000.

(b) Scholars selected in 1991 and in subsequent years are eligible to receive a total of no more than \$30,000.

(1) Each Scholar selected from a four year institution is eligible to receive up to \$3,000 for the senior year of undergraduate education. Scholars in graduate programs planning to receive degrees in one to two years are eligible to receive up to \$13,500 per year or

\$10,000 (adjusted annually from January, 1985 to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics), whichever is less. Scholars in graduate programs requiring three or more years of academic study are eligible to receive up to \$9,000 per year for a maximum of three years.

(2) Scholars selected in their sophomore year in 1992 and succeeding years are eligible to receive up to \$6,000 per year for the junior and senior years of college. Upon graduation, they will be eligible to receive up to \$9,000 per year for a maximum of two years of graduate school.

§ 1801.42 Definition of "fee".

As used in this part, *fee* means a typical and usual nonrefundable charge by the institution of higher education for a service, a privilege, or the use of property which is required for a Scholars' enrollment and registration.

§ 1801.43 Allowance for books.

The cost allowance for a Scholar's books is \$400 per year. This figure may be increased by the Foundation with the new figure published in the Bulletin of Information.

§ 1801.44 Allowance for room and board.

The cost allowed for a Scholar's room and board is the amount the institution of higher education reports to the Foundation as the average cost of room and board for the Scholar's institution, given the type of housing the Scholar occupies.

§ 1801.45 Deduction for benefits from other sources.

The cost allowed for a Scholar's tuition, fees, books, room and board must be reduced to the extent that the cost is paid by another organization or provided for or waived by the Scholar's institution.

Subpart F—Payment Conditions and Procedures

§ 1801.50 Acceptance of the scholarship.

To receive any payment, a Scholar must sign an acceptance of the scholarship and acknowledgement of the conditions of the award and submit it to the Foundation.

§ 1801.51 Report at the beginning of each term.

(a) To receive a Scholarship stipend, a Scholar must submit a current Payment Request Form containing the following:

(1) A statement of the Scholar's costs for tuition, fees, books, room and board;

(2) A certification by an authorized official of the institution that the statement of those costs is accurate;

(3) A certification of the amounts of those costs that are paid or waived by the institution or paid by another organization.

(4) A certification by an authorized official of the institution that the Scholar is a full-time student and is taking a course of study, training, or other educational activities to prepare for a career in public service; and is not engaged in gainful employment that interferes with the Scholar's studies.

(5) A certification by an authorized official of the institution of whether the Scholar is in academic good standing.

(b) At the beginning of the academic year, the Scholar must have his or her institution submit a certified Educational Expense Form showing the charges for tuition, fees, books, room and board and other expenses required for the academic year in which the Scholar will request Foundation support.

§ 1801.52 Payment schedule.

The Foundation will pay the Scholar a portion of the award after each report submitted under § 1801.51.

§ 1801.53 Postponement of payment.

(a) A Scholar may request the Foundation to postpone one or more payments because of sickness or other circumstances.

(b) If the Foundation grants a postponement, it may impose such conditions as necessary.

§ 1801.54 Annual report.

(a) Scholars with remaining eligibility for scholarship stipends must submit no later than July 15 an annual report to the Foundation.

(b) The annual report should be in narrative form and cover: Courses taken and grades earned; courses planned for the coming year if Foundation support will be requested; public service and school activities; part-time or full-time employment and summer employment or internships; and achievements, awards and recognition, publications or significant developments.

(c) Newly selected Scholars are required to submit an annual report updating the Foundation on their activities and accomplishments since the time they submitted their applications for the Truman Award.

(d) Deferred Scholars not engaged in academic studies are requested to discuss in detail their employment and public service activities and their future public service goals.

Subpart G—Duration of Scholarship

§ 1801.60 Renewal of scholarship.

It is the intent of the Foundation to provide scholarship awards for a period not to exceed a total of four academic years, only in accordance with the regulations established by its Board of Trustees, and subject to an annual review for compliance with the requirements of this part.

§ 1801.61 Termination of scholarship.

(a) The Foundation may suspend or terminate a scholarship under the following specific conditions.

(1) Unsatisfactory academic performance for two terms, failure to pursue preparation for a career in public service, or loss of interest in a career in public service. Unsatisfactory academic performance is considered failure as an undergraduate to maintain a B or better term average for two terms.

(2) Failure to meet the criteria in §§ 1801.3(d), 1801.31(b), or § 1801.51.

(3) Providing false, misleading, or materially incomplete information on any report, payment request or other submission to the Foundation.

(b) Before it terminates a scholarship, the Foundation will notify the Scholar of the proposed action and will provide an opportunity to be heard with respect to the grounds for termination.

§ 1801.62 Recovery of scholarship funds.

(a) When a Truman Scholarship is terminated for any reason, the Scholar must return to the Foundation any stipend funds which have not yet been spent or which the Scholar may recover.

(b) A Scholar who fails for any reason to complete as a full-time student a school term for which he or she has received a Foundation stipend, must return the amount of that stipend to the Foundation. The Foundation may waive this requirement upon application by the Scholar showing good cause for doing so.

[FR Doc. 91-22405 Filed 9-20-91; 8:45 am]

BILLING CODE 6820-AB-M

Federal Register

Monday
September 23, 1991

Part IV

Department of the Interior

Bureau of Indian Affairs

25 CFR Parts 101 and 103
Loans to Indians From the Revolving
Loan Fund Loan Guaranty, Insurance,
and Interest Subsidy; Notice of Proposed
Rulemaking

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****25 CFR Parts 101 and 103****RIN 1076-AC38****Loans to Indians From the Revolving Loan Fund Loan Guaranty, Insurance, and Interest Subsidy**

September 16, 1991.

AGENCY: Bureau of Indian Affairs, Interior.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Indian Financing Act Amendments of 1988 increased the maximum amounts of loans to individuals which can be guaranteed and liberalized provisions for the sale of guaranteed loans so that they may be purchased by "any person." These amendments require changes in subchapter G, parts 101 and 103, for the Code of Federal Regulations, which are set out below.

Other changes comply with OMB Circulars A-129, Managing Federal Credit Programs, and A-70, Federal Credit Policy.

Other changes reflect the current policies in the administration for the Revolving Loan Fund and the Loan Guaranty Programs.

DATES: Comments must be received on or before October 23, 1991.

ADDRESSES: Send written comments to the Director, Office of Trust and Economic Development, Attention: Division of Financial Assistance, room 4060 MIB, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Woodrow B. Sneed, Division of Financial Assistance, Bureau of Indian Affairs, telephone number (202) 208-4796.

SUPPLEMENTARY INFORMATION: These amendments are published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the **ADDRESSES** section of this preamble.

The Department of the Interior has determined that this document is not a major action under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The Department has further determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The collections of information contained in §§ 101.4, 103.15, and 103.34 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1076-0020. The information is being collected to implement the requirements of 25 U.S.C. 1451 et seq. and 25 U.S.C. 1418 et seq. and will be used to establish eligibility for loans or loan guarantees. Response is required to obtain a benefit in accordance with 25 U.S.C. 1451 et seq. and 1481 et seq.

Public reporting burden for this information is estimated to average 15 minutes to 3 hours per response to part 101 collections and 30 minutes per response to part 103 collections. This is the same burden as estimated in the rules being amended and includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information to Information Clearance Officer, Bureau of Indian Affairs; Washington, DC 20240; and to the Office of Management and Budget; Paperwork Reduction Project (1076-0020); Washington, DC 20503.

Amendments to part 103 increase the amount of a loan to individual Indians which can be guaranteed and provide that guaranteed loans can be purchased by "any person." These changes reflect changes in the Indian Financing Act by the 1988 amendments.

Other changes comply with OMB Circular A-129, Managing Federal Credit Programs, and A-70, Federal Credit Policy. The section on use of tribal funds for lending programs and economic development is deleted because the disposition of tribal funds is the business of the tribes and should not be restricted unnecessarily by excessive regulation.

A provision that tribes may mortgage their unrestricted lands is deleted because there is no authority for it.

Amendments clarify that the lender of guaranteed or insured loans retains responsibility for administering loans even if the guaranty certificate is conveyed to another party. To this end,

most references to holders of guaranty certificates are deleted.

Amendments provide that interest subsidies on guaranteed or insured loans will be discontinued any time a guaranty or insurance agreement terminates for any reason.

The prohibition on points, finders fees, loan origination fees, bonuses, and commissions under the loan guaranty and insurance program is emphasized.

Amendments provide that lenders will share pro rata in proceeds from the liquidation of a borrower's assets upon default after the United States has recovered its costs in managing and disposing of the collateral.

A requirement that borrowers must provide at least 20 percent equity in the business being financed with a direct or guaranteed loan is added. Premium payments are required in a lump sum at the beginning of a loan.

The primary author of this document is Woodrow B. Sneed, Division of Financial Assistance, Bureau of Indian Affairs, telephone number (202) 208-4796.

List of Subjects in 25 CFR Parts 101 and 103

Indians—business and finance, Loan programs—Indians, Loan programs—business.

For the reasons set out in the preamble, amendments to parts 101 and 103 of title 25, chapter I, of the Code of Federal Regulations are proposed as set forth below:

PART 101 [AMENDED]

1. The authority citation for 25 CFR part 101 is revised to read as follows:

Authority: 25 U.S.C. 1469.

2. Section 101.1 is revised to read as follows:

§ 101.1 Definitions.

As used in this part 101:

Applicant means an applicant for a United States Direct Loan from the revolving loan fund or a loan from a relending organization.

Commissioner means the Commissioner of Indian Affairs or his authorized representative.

Cooperative association means an association of individuals organized pursuant to state, Federal, or tribal law, for the purpose of owning and operating an economic enterprise for profit with profits distribution or allocated to patrons who are members of the organization.

Corporation means an entity organized as a corporation pursuant to state, Federal, or tribal law, with or

without stock, for the purpose of owning and operating an economic enterprise.

Default means failure of a borrower to:

- (1) Make scheduled payments on a loan when due,
- (2) Obtain the lender's approval for disposal of assets mortgaged as security for a loan, or
- (3) Comply with the covenants, obligations, or other provisions of a loan agreement.

Economic enterprise means any Indian-owned commercial, industrial, agricultural, or business activity established or organized for the purpose of profit, provided that eligible Indian ownership constitutes not less than 51 percent of the enterprise.

Equity means the borrower's residual claim to business assets after deducting all business debt.

Financing statement means the document filed or recorded in county or state offices pursuant to the provisions of the Uniform Commercial Code notifying third parties that a lender has a lien on the chattels and/or crops of a borrower.

Indian means a person who is a member of an Indian tribe as defined in this part.

Organization means the governing body of any Indian tribe, or entity established or recognized by such governing body for the purpose of the Indian Financing Act.

Other organization means any non-Indian individual, firm, corporation, partnership, or association.

Partnership means a form of business organization in which two or more legal persons are associated as co-owners for the purposes of business or professional activities for private pecuniary gain, organized pursuant to tribal, state, or Federal law.

Reservation means Indian reservation, California rancheria, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by Alaska Native groups incorporated under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688), as amended.

Revolving loan fund means all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968) and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented including sums received in settlement of debts for livestock pursuant to the Act of May 24, 1950, (64 Stat. 190) and sums collected in repayment of loans made, including interest or other charges on loans, and any funds appropriated pursuant to

section 108 of the Indian Financing Act of 1974 (88 Stat. 77).

Secretary means the Secretary of the Interior.

Tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or any regional, village, urban or group corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), as amended, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

3. Section 101.3 is amended by adding a sentence at the end of paragraph (a) as follows:

§ 101.3 Eligible borrowers under United States direct loan program.

(a) * * * In addition, the applicant will be required to have equity equal to 20 percent of the total costs of a new enterprise, or 20 percent of total costs of expansion of an existing enterprise.

* * * * *

4. Section 101.4 is amended by removing the second sentence and by adding three new sentences in its place as follows:

§ 101.4 Applications.

* * * Applications shall include the name, current address and telephone number of the applicant(s); current and prior Taxpayer Identification Number—Employer Identification Number if a business entity, Social Security Number if an individual; and current employer's name, address, and telephone number; amount of the loan requested; purpose for which loan funds will be used; and security to be offered; period of the loan, assets, liabilities and repayment capacity of the applicant; budgets reflecting income and expenditures of the applicant; and any other information necessary to adequately evaluate the application. The borrower must sign a statement declaring no delinquency on Federal taxes or other Federal debt and borrower's good standing on dealings in procurement or non-procurement with the Federal Government. The Bureau will obtain a current credit bureau report and prescribe procedures to be used in handling loan proceeds. * * *

5. Section 101.6 is amended by adding the following sentence at the end of paragraph (a):

§ 101.6 Modification of loans.

(a) * * * In addition, a current credit bureau report, obtained by the Bureau of Indian Affairs, will be made a part of the modification request.

* * * * *

6. Section 101.11 is amended by revising paragraphs (b) and (c) as follows:

§ 101.11 Interest.

* * * * *

(b) Additional charges to cover loan administration costs, including credit reports and loan origination fees, may be charged to borrowers.

(c) Education loans may provide for deferral of interest while the borrower is in school full time or in the military service.

* * * * *

7. Section 101.15 is amended by adding new paragraphs (j)–(s) as follows:

§ 101.15 Penalties on default.

* * * * *

(j) Report the name and account information of a delinquent borrower to a credit bureau.

(k) Assess additional interest and penalty charges for the period of time that payment is not made.

(l) Assess charges to cover additional administrative costs incurred by the Government to service the account.

(m) Offset amounts owed the borrower under other Federal programs including other programs administered by the Bureau of Indian Affairs.

(n) Refer the account to a private collection agency to collect the amount due.

(o) Refer the account to the U.S. Department of Justice for collection by litigation.

(p) If the borrower is a current or retired Federal employee, take action to offset the borrower's salary or civil service retirement benefits.

(q) Refer the debt to the Internal Revenue Service for offset against any amount owed the borrower as an income tax refund.

(r) Report any written-off debt to the Internal Revenue Service as taxable income to the borrower.

(s) Recommend suspension or debarment from conducting further business with the Federal Government.

§ 101.20 [Removed]

§§ 101.21–101.26 [Redesignated as §§ 101.20–101.25]

8. Section 101.20 is removed and §§ 101.21 through 101.26 are redesignated as §§ 101.20 through 101.25.

§ 101.20 [Amended]

9. Newly redesignated § 101.20 is amended by removing paragraph (e) and redesignating paragraph (f) as paragraph (e).

PART 103 [AMENDED]

10. The authority citation for 25 CFR part 103 is revised to read as follows:

Authority: 25 U.S.C. 1498.

11. Section 103.1 is revised to read as follows:

§ 103.1 Definitions.

As used in this part:

Applicant means one who applies for a guaranteed or insured loan.

Borrower means the Indian organization or individual Indian receiving a guaranteed or insured loan.

Commissioner means the Commissioner of Indian Affairs or his authorized representative.

Cooperative association means an association of individuals organized pursuant to state, Federal, or tribal law for the purpose of owning and operating an economic enterprise for profit with profits distributed or allocated to patrons who are members of the organization.

Corporation means an entity organized as a corporation pursuant to state, Federal, or tribal law, with or without stock for the purpose of owning and operating an economic enterprise.

Default means failure of a borrower to:

- (1) Make scheduled payments on a loan, when due,
- (2) Obtain the lender's approval for disposal of assets mortgaged as security for a loan, or
- (3) Comply with the covenants, obligations, or other provisions of a loan agreement.

Economic enterprise means any Indian-owned commercial, industrial, agricultural, or business activity established or organized for the purpose of profit, provided that eligible Indian ownership constitutes not less than 51 percent of the enterprise.

Equity means the borrower's residual claim to business assets after deducting all business debt.

Financing statement means the document filed or recorded in county or state offices pursuant to the provisions of the Uniform Commercial Code notifying third parties that a lender has a lien on the chattels and/or crops of a borrower.

Guaranty means the obligation assumed by the United States to repay a specific percentage of a loan upon default of the borrower pursuant to the regulations in this part.

Indian means a person who is a member of an Indian tribe as defined in this part.

Insured loan means a loan made pursuant to an agreement approved by

the Assistant Secretary with a financial institution, under which an obligation is assumed by the United States to indemnify the lender for a percentage of a loss on loans, pursuant to the regulations in this part.

Interest subsidy means payments which may be made by the United States to lenders making guaranteed or insured loans to reduce the interest rate which borrowers pay the lenders to the rate established pursuant to section 104 of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

Mortgage means a mortgage or deed of trust evidencing an encumbrance of land, a mortgage or security agreement executed as evidence of a lien against crops and chattels, and a mortgage or deed of trust evidencing a lien on leasehold interests.

Organization means the governing body of any Indian tribe or entity established or recognized by such governing body for the purpose of the Indian Financing Act.

Partnership means a form of business organization in which two or more persons are associated as co-owners for the purposes of business or professional activities for private pecuniary gain organized under tribal, state, or Federal law.

Premium means the charges paid by lenders for the guaranty or insurance of loans under provisions for reimbursement of lenders by the United States for a percentage of losses incurred.

Reservation means Indian reservation, California rancheria, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by Alaska Native groups incorporated under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688), as amended.

Secretary means the Secretary of the Interior.

Tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or any regional, village, or urban or group corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) as amended which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

12. Section 103.7 is amended by removing the first sentence and adding two sentences in its place as follows:

§ 103.7 Eligible organizations.

Tribes and Indian organizations having a form of organization satisfactory to the Commissioner and recognized by the Federal Government

as eligible for services from the Bureau of Indian Affairs, and indicating reasonable assurance of repayment, are eligible for guaranteed or insured loans. If Indian ownership of an economic enterprise falls below 51 percent, the borrower shall be in default and the guaranty shall cease and the interest subsidy shall be discontinued. * * *

13. Section 103.10 is amended by adding a new paragraph (e) as follows:

§ 103.10 Ineligible loans.

* * *

(e) Loans which are linked to Federally tax-exempt bond obligations.

14. Section 103.13 is amended by revising paragraph (a) to read as follows:

§ 103.13 Amount of guaranty.

(a) The percentage of a loan that is guaranteed shall be the minimum necessary to obtain financing for an applicant, but may not exceed 90 percent of the unpaid principal and interest. After September 30, 1991, the percentage of a loan that is guaranteed shall not exceed 80 percent. The liability under the guaranty shall increase or decrease pro rata with an increase or decrease in the unpaid portion of the principal amount of the obligation. No loan to an individual Indian, partnership, or other non-tribal organization may be guaranteed for an unpaid principal amount in excess of \$500,000 or such maximum amount provided in any amendments to the Indian Financing Act of 1974.

* * *

15. Section 103.15 is amended by revising the heading of the section and paragraphs (a) and (c) as follows:

§ 103.15 Applications for loan guaranties or insurance.

(a) Applicants for loans will deal directly with lenders for both guaranteed and insured loans. The form of loan applications will be determined by the lender. The application for a loan guaranty or insurance, or attachments thereto, must include or show the following:

(1) The name and address of the borrower with the tax identification number if the borrower is a business entity or the social security number if an individual;

(2) A statement signed by the borrower that the borrower is not delinquent with any Federal tax or other obligations;

(3) The plan of operation for the economic enterprise including an identified target market for the goods or services being offered;

(4) Purpose(s) and the amount of the loan;

(5) Security to be given which shall be itemized with valuations of such collateral and the method used to value the collateral, the date of such valuation, who performed the valuation, and the creditor priority positions;

(6) Hazard and liability insurance to be carried;

(7) Interest rate;

(8) Repayment schedule;

(9) Repayment source(s);

(10) How title to the property to be purchased with the loan will be taken;

(11) Current financial statements of the loan applicant;

(12) Description and dollar value of the equity or personal investment to be made by the applicant;

(13) Charges pursuant to § 103.44;

(14) Pro forma balance sheets, operating statements and cash flow statements for at least three years;

(15) Balance sheets and operating statements for the two preceding years or applicable period thereof if already in operation;

(16) The lender's evaluation of the economic feasibility of the enterprise and internal credit memorandum, and;

(17) A current credit bureau report on the borrower. Applications will also show the percentage of guaranty requested.

(c) The Commissioner may review applications for guaranteed loans individually and independently from the lending institution.

16. Section 103.16 is revised to read as follows:

§ 103.16 Loan otherwise available.

If the information in an application for a guaranteed or insured loan indicates that the applicant may obtain the loan without a guaranty or insurance, the Commissioner may deny the request for a guaranty or insurance.

17. Section 103.17 is amended by revising the second sentence of paragraph (a) and adding a new sentence at the end of paragraph (a) as follows:

§ 103.17 Refinancing.

(a) * * * applications to refinance loans to an economic enterprise will be accompanied by financial and cash flow statements required in § 103.15(a) (1)-(17). A guaranty of a loan to refinance existing indebtedness will be considered only if the loan will result in a significantly lower lender's interest rate to the borrower, or provide a substantially longer term for repayment of the loan, or decrease the loan-to-asset

value ratio of the business being financed.

* * * * *

18. Section 103.23 is amended by revising the last sentence of paragraph (b) as follows:

§ 103.23 Increase in principal of loans.

* * * * *

(b) * * * If the financing involves an economic enterprise, the application must be accompanied by the information required in §§ 103.15(a) (4)-(15).

* * * * *

19. Section 103.27 is amended by adding a sentence at the end as follows:

§ 103.27 Amount of security.

* * * The lender shall itemize and describe the collateral given as security as described in section 103.15(a) (5) and (10) of this part.

20. Section 103.30 is amended by revising paragraph (a) as follows:

§ 103.30 Land.

(a) Indian individuals may execute mortgages or deeds of trust on nontrust or unrestricted land as security without the approval of any Federal official.

* * * * *

21. Section 103.34 is amended by adding a new sentence after the first sentence to read as follows:

§ 103.34 Restrictions.

* * * Lenders will document any and all prior security interests of record with respect to proposed collateral. * * *

22. Section 103.36 is revised to read as follows:

§ 103.36 Default on guaranteed loans.

(a) Within 45 calendar days after the occurrence of a default, the lender shall notify the Commissioner by certified or registered mail showing the name of borrower, guaranty certificate number, amount of unpaid principal, amount of principal delinquent, amount of interest accrued and unpaid to date of notice, amount of interest delinquent at time of notice, and other failure of the borrower to comply with provisions of the loan agreement. Within 60 calendar days after default on a loan, the lender shall proceed as prescribed in either paragraph (b), (c), or (d) of this section, unless an extension of time is requested by the lender and approved by the Commissioner. The request for an extension shall explain the reason why a delay is necessary and the estimated date on which action will be initiated. Failure of the lender to proceed with action within 60 calendar days or the date to which an extension is approved by the Commissioner shall cause the

guaranty certificate to cease being in force or effect. If the Commissioner is not notified of the failure of a borrower to make a scheduled payment or of other default within the required 45 calendar days, the Commissioner will proceed on the assumption that the scheduled payment was made and that the loan agreement is current and in good standing. The Commissioner will then decrease the amount of the guaranty pro rata by the amount of the due installment and the lender will have no further claim for guaranty as it applied to the installment, except for the interest subsidy on guaranteed loans which may be due.

(b) The lender may make written request that payment be made pursuant to the provisions of the guaranty certificate or guaranty agreement. If the Commissioner finds that a loss has been suffered, the lender may be paid the pro rata portion of the amount guaranteed including unpaid interest.

(c) The borrower and the lender may agree upon an extension of the repayment terms or other forbearance for the benefit of the borrower. The lender may extend all reasonable forbearance if the borrower becomes unable to meet the terms of a loan. However, such forbearance will not be extended if it will increase the likelihood of a loss on a loan.

Agreements between a lender and a borrower shall be in writing and will require approval by the Commissioner.

(d) The lender may advise the Commissioner in writing that suit or foreclosure is considered necessary and proceed to foreclosure and liquidation of all security interests. On completion of foreclosure and liquidation, if the Commissioner determines that a loss has been suffered, the lender will be reimbursed for the pro rata portion of the amount of unpaid principal and interest guaranteed. A lender will submit a claim for reimbursement for losses on a form furnished by the Commissioner and will furnish any additional information needed to establish the amount of the claim. On reimbursement of a lender for the pro rata amount of the loss guaranteed as provided in the guaranty certificate, the lender will subrogate its right and interest in the loan to the United States and assign the loan obligations and security for the loan to the United States. The Commissioner may establish the date on which accrual of interest or charges shall cease. This date may not be later than the date of judgment and decree of foreclosure or sale. The Commissioner will take any action necessary to protect the interest of the

United States. Subsequent to subrogation and assignment, any collections shall be for the account of the United States up to the amount paid on the guaranty plus any costs or expenses incurred by the United States. Collections will be deposited in the loan guaranty and insurance fund established pursuant to this part. Any amounts collected in excess of those necessary to reimburse the United States for amounts paid under the guaranty plus costs or expenses shall be paid to the lender up to the amount of the lender's losses. Any residue from collection shall go to the borrower.

§ 103.38 [Amended]

23. Section 103.38 is amended by removing the word "deems" in the first sentence and adding "deemed."

24. Section 103.42 is amended by revising the introductory text of paragraph (a); adding a new paragraph (a)(5); removing the second sentence in paragraph (c); and adding a sentence at the end of paragraph (c); as follows:

§ 103.42 Interest subsidy.

(a) The Commissioner may pay an interest subsidy to lenders on loans which are guaranteed or insured under this part 103 at rates which are necessary to reduce the interest rate payable by the borrowers to a rate determined in accordance with title I, section 104, of the Indian Financing Act of 1974 (Pub. L. 93-262, 83 Stat. 77). The rate of subsidy will be established by the Commissioner at the time of issuance of a guaranty certificate or insurance agreement on loans requiring approval by the Commissioner. Interest subsidy payments by the United States shall be discontinued on such loans if

the lender elects to discontinue the guaranty or insurance or causes the termination of the guaranty or insurance by failure to make premium payments as required by section § 103.43, or when one of the following occurs:

* * * * *

(5) Cash flow from the business being financed appears sufficient to pay for full debt service based on periodic review by the Commissioner. Cash flow shall be deemed sufficient to pay debt service when earnings before interest and taxes, after adjustments for extraordinary items, equal or exceed industry norms.

* * * * *

(c) * * * The interest subsidy rate established by the Commissioner will be in effect for three years. At the end of the third year the need for subsidy will be reviewed and extended on an annual basis for the next two years, if justified.

25. Section 103.43 is revised as follows:

§ 103.43 Premium charges.

A premium of 2.0 percent of the guaranteed portion of a loan will be charged to lenders. The lender may increase the principal amount of the loan by the cost of the premium and charge it to the borrower. The lender shall pay the premium within 90 days of the date of approval of the loan guaranty. If the guaranty premium is not paid within this time period, the Assistant Secretary will send the lender a notice of non-payment. If the premium is not paid within 30 days of the receipt of this notice, the guaranty shall be subject to termination.

26. Section 103.44 is amended by revising the last sentence as follows:

§ 103.44 Other charges.

* * * Payment by the borrower of points, finders fees, loan origination fees, bonuses or commissions for loans guaranteed under this part is prohibited.

27. Section 103.46 is amended by designating the existing paragraph as paragraph (a) and adding paragraph (b) as follows:

§ 103.46 Loan servicing.

* * * * *

(b) Loan servicing must meet the following standards regarding billing and documentation. Payments must be routinely invoiced, in most cases on a monthly basis. Invoices should include the date the payment is due and the date the payment will be considered late (i.e., grace period). Borrowers should be encouraged to use pre-authorized debits or credit cards when making payments. Loan files must contain current information on payment history, including delinquencies and defaults, and any subsequent loan action concerning deferrals, refinancing, or rescheduling. In delinquent cases, lenders should follow their standard operating procedures in notifying those borrowers about their status. Such notifications should state the lenders' intent to report the delinquent debts to credit bureaus or to refer debts to collection agencies if the borrowers do not promptly remit payments. There should be a record of the time and outcome of each contact with the delinquent borrowers.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 91-22745 Filed 9-20-91; 8:45 am]

BILLING CODE 4310-02-M

Register

Vol. 16, No. 18

September 23, 1991

Price \$5.00

Monday
September 23, 1991

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

**Inapplicability of Basic VFR Weather
Minimums for Helicopter Operations;
Final Rule**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 91****[Docket No. 24722, Amendment No. 91-224]****RIN 2120-AE19****Inapplicability of Basic VFR Weather Minimums for Helicopter Operations****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; interpretive amendment.

SUMMARY: This action corrects an unintended restriction on helicopter operations conducted outside of controlled airspace below 1,200 feet above the surface. Section 91.155 of the Federal Aviation Regulations, as amended, technically requires the pilot of a helicopter conducting such operations to maintain greater distances from clouds when the visibility is at or above the minimum required than when the visibility is less than the minimum required. This was not the intent of the amendment. The intent of § 91.155 is to allow helicopters to operate under visual flight rules (VFR), regardless of flight visibility, provided the other criteria of that section are met. This action clarifies the intent of the rule.

EFFECTIVE DATE: September 23, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron I. Boxer, (202) 267-9241, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:**Background**

On September 29, 1989, the Federal Aviation Administration (FAA) published a final rule that revised cloud clearance minimums for fixed-wing aircraft in uncontrolled airspace (54 FR 40324). Helicopters, under the previous rule, were permitted to fly clear of clouds, regardless of flight visibility, provided the flight was conducted outside controlled airspace below 1,200 feet above the surface. The language used in the revised rule was intended to provide the same level of exemption to helicopters as existed under the old rule. Section 91.155(b)(1), provided that when the visibility is below 1 mile during the day and below 3 miles at night, helicopters may fly clear of clouds outside of controlled airspace, and below 1,200 feet above the surface, if operated at a speed that allows the pilot adequate opportunity to see any air traffic or obstruction in time to avoid a

collision. It was brought to the FAA's attention by the U.S. Army that the wording of § 91.155(b)(1) appears to restrict helicopters to the same cloud clearance criteria as airplanes when flight visibility is above 3 miles at night. This interpretation of the rule is not intended. The change to § 91.155 was made to restrict fixed-wing aircraft to the same cloud clearance and visibility requirements in uncontrolled airspace as in controlled airspace. The FAA did not intend to remove the then-existing exceptions provided to helicopters under the rule.

Helicopters have the ability to operate at lower speeds and with a significantly higher degree of maneuverability than airplanes. These qualities allow a helicopter to be operated at lower visibility and cloud clearance distances while maintaining the same degree of safety as fixed-wing aircraft flying under more restrictive minima. The exception incorporated in § 91.155 is designed to allow the pilot of a helicopter to take advantage of the aircraft's abilities while maintaining the same degree of safety. Therefore, when a helicopter operates in uncontrolled airspace below 1,200 feet above the surface the pilot need only remain clear of clouds regardless of flight visibility.

Reason for No Notice and Immediate Adoption

This amendment is adopted as a final rule to clarify the intent of an agency regulation. Accordingly, this amendment is excepted from the general notice and comment requirements pursuant to 5 U.S.C. 553 (B). Because this amendment simply clarifies the intent of an existing regulation, I find that good cause exists for making the amendment effective upon publication.

Economic Evaluation

Executive Order 12291, dated February 17, 1981, directs Federal Agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each proposed change outweigh potential costs.

There are no costs associated with this amendment. It merely clarifies the original intent to continue to allow helicopters, operating in uncontrolled airspace below 1,200 feet above the surface, to remain clear of clouds only, regardless of flight visibility.

The FAA finds that this interpretive amendment is covered by the regulatory evaluation for the final rule published September 22, 1989, and further regulatory evaluation is not required. A copy of that regulatory evaluation is filed in the FAA Rules Docket 24722.

International Trade Impact Statement

This rule will not impose a competitive disadvantage to either U.S. air carriers doing business abroad or foreign air carriers doing business in the United States. This assessment is based on the fact that this rule will not impose additional costs on either U.S. or foreign air carriers.

Regulatory Flexibility Determination

In accordance with the Regulatory Flexibility Act of 1980, the FAA has determined that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. This assessment is based on the regulatory evaluation of the final rule published on September 22, 1989, and on the fact that this amendment will not impose any additional cost on aircraft operators.

Federalism Implications

The regulations adopted herein will not have any direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

This action clarifies an agency regulation and does not change any reporting requirements.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under the Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Air traffic control, Aviation safety, Flight visibility, Terminal control areas, Visual flight rules corridor.

The Amendment

Part 91 of the Federal Aviation Regulations (14 CFR part 91) is amended as follows:

PART 91—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by Pub. L. 100-228) through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq; E.O.

11514; Pub. L. 100-202; 49 U.S.C. 100(g) (Revised Pub. L. 97-449, January 12, 1983).

2. Section 91.155(b)(1) is revised to read as follows:

§ 91.155 Basic VFR weather minimums.

* * * * *

(b) * * *

(1) *Helicopter.* A helicopter may be operated clear of clouds if operated at a

speed that allows the pilot adequate opportunity to see any air traffic or obstruction in time to avoid a collision.

* * * * *

Issued in Washington, DC, on September 16, 1991.

James B. Busey,
Administrator.

[FR Doc. 91-22803 Filed 9-20-91; 8:45 am]

BILLING CODE 4910-13-M